

STATE OF CALIFORNIA  
**DEPARTMENT OF INSURANCE**  
45 Fremont Street, 21st Floor  
San Francisco, California 94105

**NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING**

**File No. RH-05-044493**

Notice Date: March 25, 2005

Proposed Revisions to the Insurance Commissioner's Regulations pertaining to the Recording and Reporting of Data; Statistical Reporting and Experience Rating; and Approval of Advisory Pure Premium Rates to be effective July 1, 2005.

**SUBJECT OF HEARING**

Notice is hereby given that the Insurance Commissioner will hold a public hearing to consider (1) the approval of advisory pure premium rates developed by the designated rating organization; (2) amendments to the California Workers' Compensation Uniform Statistical Reporting Plan-1995; and (3) amendments to the Miscellaneous Regulations for the Recording and Reporting of Data; and (4) amendments to the California Workers' Compensation Experience Rating Plan-1995. The hearing will be held in response to a filing, submitted on March 25, 2005, by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB").

**AUTHORITY AND REFERENCE**

Uniform Plans and Regulations

The workers' compensation statistical reporting rules are set forth in Title 10, California Code of Regulations, Section 2318.6. The miscellaneous regulations for the recording and reporting of data are set forth in Title 10, California Code of Regulations, Section 2354. The workers' compensation experience rating regulations are set forth in Title 10, California Code of Regulations, Section 2353.1. The regulations were promulgated by the Insurance Commissioner pursuant to the authority granted by Insurance Code Section 11734.

Pure Premium Rates

Pursuant to Insurance Code Section 11750.3, a rating organization is permitted to develop pure premium rates for submission to the Insurance Commissioner for issuance or approval. The Insurance Code provisions regarding State rate supervision operative January 1, 1995 do not authorize the Insurance Commissioner to require insurers to use the pure premium rates submitted by the designated rating organization and issued or approved by the Insurance Commissioner. Accordingly, the pure premium rates issued or approved by the Insurance Commissioner are advisory only.

## **HEARING DATE AND LOCATION**

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the matters proposed in the WCIRB's filing, at the following date, time and place:

**April 25, 2005 – 9:30 A.M.  
California Department of Insurance  
22nd Floor Hearing Room  
45 Fremont Street  
San Francisco, California**

## **INFORMATIVE DIGEST**

Pursuant to Insurance Code Sections 11734 11751.5, the Insurance Commissioner has designated the WCIRB as his rating organization and statistical agent. As the designated rating organization and statistical agent, the WCIRB has developed and submitted for the Insurance Commissioner's approval pure premium rates and revisions to the California Workers' Compensation Uniform Statistical Reporting Plan–1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and California Workers' Compensation Experience Rating Plan–1995. The pure premium rates will be advisory only; however, adherence to the regulations contained in the California Workers' Compensation Uniform Statistical Reporting Plan–1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan–1995 is mandatory.

The pure premium rates recommended by the WCIRB to be effective July 1, 2005, as well as amendments to the California Workers' Compensation Uniform Statistical Reporting Plan–1995, the Miscellaneous Regulations for the Recording and Reporting of Data, and the California Workers' Compensation Experience Rating Plan–1995, are detailed in the WCIRB's filing letter and summarized below.

## **APPROVE PURE PREMIUM RATES**

Pursuant to California Insurance Code Section 11750.3, the WCIRB has proposed advisory pure premium rates for approval by the Insurance Commissioner to be effective July 1, 2005 with respect to new and renewal policies with anniversary rating dates on or after July 1, 2005. The proposed advisory pure premium rates are 10.4% less than the January 1, 2005 advisory pure premium rates approved by the Insurance Commissioner.

The proposed pure premium rates applicable to new and renewal policies with anniversary rating dates on or after July 1, 2005 are based on (a) insurer losses incurred during 2004 and prior accident years valued as of December 31, 2004; (b) insurer loss adjustment expenses for 2003 and prior years; and (c) except as noted, the same methodologies underlying the approved January 1, 2005 advisory pure premium rates.

The proposed pure premium rates do not reflect provision for the new permanent disability rating schedule the Administrative Director of the Division of Workers' Compensation recently adopted pursuant to Senate Bill No. 899, which amends California Labor Code

Section 4660. The WCIRB is in the process of evaluating the impact of this new schedule on the cost of benefits. If appropriate based on that review, the WCIRB will submit amendments to the proposed pure premium and will also propose amendments to the pure premium rates effective July 1, 2005 with respect to new and renewal policies with anniversary rating dates on or after January 1, 2005.

#### **AMEND THE CALIFORNIA WORKERS' COMPENSATION UNIFORM STATISTICAL REPORTING PLAN-1995**

The WCIRB recommends that the following revision to the California Workers' Compensation Uniform Statistical Reporting Plan-1995 to become effective July 1, 2005 with respect to new and renewal policies with anniversary rating dates on or after July 1, 2005:

- Amend to specify that a policy providing coverage for the workers leased by a labor contractor to a client and written in the labor contractor's name can include the phrase "Leased Coverage For" or the acronym "LCF" followed by the client's name in Item 1 of the policy.

#### **AMEND MISCELLANEOUS REGULATIONS FOR THE RECORDING AND REPORTING OF DATA**

The WCIRB recommends that the following revision to the Miscellaneous Regulations for the Recording and Reporting of Data to become effective July 1, 2005 with respect to new and renewal policies with anniversary rating dates on or after July 1, 2005:

- Amend to permit a policy issued in the name of the client of a Labor Contractor to cover both the client's employees and its leased workers on the same policy.

#### **AMEND CALIFORNIA WORKERS' COMPENSATION EXPERIENCE RATING PLAN-1995**

The WCIRB recommends the following revisions to the California Workers' Compensation Experience Rating Plan-1995 to become effective July 1, 2005 with respect to new and renewal policies with anniversary rating dates on or after July 1, 2005:

- Amend the Experience Rating Eligibility from \$28,400 to \$25,446 to reflect the proposed July 1, 2005 pure premium rate change.
- Amend to specify that: (a) a separate policy is required for each client that *leases any* of its workers, except for temporary workers, through a labor contractor, whether the client is experience rated or not; (b) the experience modification of the client, if any, must apply to the separate policy; (c) the experience reported for the separate policy must be used to calculate an experience modification for the client if the client is eligible or becomes eligible for experience rating; (d) a limiting and restricting endorsement must be applied to certain policies; (e) either the client or the labor contractor, but not both, may be the named insured on the separate policy; and (f) the insurer may cover both the workers leased to the client and the client's employees on a single policy, provided the client is the named insured on the policy.

## **COSTS OR SAVINGS RESULTING FROM THE REGULATIONS**

The Insurance Commissioner is authorized by law to promulgate advisory loss cost rates. These rates may or may not be adopted by insurance companies. To the extent they are adopted, they may result in lower costs.

## **COST OR SAVINGS AND MANDATE TO LOCAL AGENCIES AND SCHOOL DISTRICTS**

The Insurance Commissioner has determined that there may be a cost savings and there will not be any new programs mandated on any local agency or school district as a result of the proposed regulations, if adopted as proposed herein and implemented by insurers.

## **IMPACT ON HOUSING COSTS**

The Insurance Commissioner has determined that the proposed regulations [will not] have a significant effect on housing costs.

## **IMPACT ON SMALL BUSINESSES**

The Insurance Commissioner has determined that the proposed regulations if adopted by insurers will not have a significant effect on small businesses.

## **COST IMPACT ON PRIVATE PERSONS OR ENTITIES**

The Insurance Commissioner must determine the potential cost impact of the proposed regulations on private persons or businesses directly affected by the proposal. At this time, the Insurance Commissioner expects that the proposed regulations will not have a significant effect on private persons or entities.

## **FEDERAL FUNDING TO THE STATE**

The matters proposed herein will not affect any federal funding.

## **NON-DISCRETIONARY COSTS OR SAVINGS**

The proposed regulations will not impose any non-discretionary costs or savings to local agencies.

## **COST OR SAVINGS TO STATE AGENCIES**

The matters proposed herein will not result in any cost or savings to State agencies, except for the State Compensation Insurance Fund.

## **REIMBURSABLE COSTS**

There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

## **COMPARABLE FEDERAL LAW**

There are no existing federal regulations or statutes comparable to the proposed regulations.

## **ACCESS TO HEARING ROOMS**

The facility to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make special arrangements, if necessary.

## **PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS**

All persons are invited to submit written comments to the Insurance Commissioner prior to the public hearing on the proposed amendments contained in the WCIRB's filing. Such comments should be addressed to:

California Department of Insurance  
Attention: Christopher A. Citko, Senior Staff Counsel  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 492-3187

Any interested person may present oral and/or written testimony at the scheduled public hearing. Written comments and oral testimony will be given equal weight in the Insurance Commissioner's deliberations.

## **DEADLINE FOR WRITTEN COMMENTS**

All written material, unless submitted at the hearing, must be received by the Insurance Commissioner at the address listed above no later than 5:00 PM on May 19, 2005.

## **TEXT OF REGULATIONS AND STATEMENT OF REASONS AVAILABLE**

The Insurance Commissioner has prepared an Initial Statement of Reasons for the proposed regulations, in addition to the informative digest included in this Notice of Proposed Action and Notice of Public Hearing. The express terms of the proposed regulations as contained in the WCIRB's filing, the Notice of Proposed Action and Notice of Public Hearing, and the Initial Statement of Reasons will be made available for inspection or provided without charge upon written request to the contact person for these hearings (listed above). The filing may also be accessed on the WCIRB's website at [www.wcirbonline.org/filings](http://www.wcirbonline.org/filings).

## **ACCESS TO RULE MAKING FILE, CONTACT**

Any interested person may inspect a copy of or direct questions about the proposed regulations or other matters relative to this filing, the statement of reasons thereof, and any supplemental information contained in the rule-making file upon application to the contact person (listed above). The rule-making file will be available for inspection at 45 Fremont Street, 22nd Floor, San Francisco, California 94105, between the hours of 9:00 AM and 4:30 PM, Monday through Friday.

## **AUTOMATIC MAILING**

A copy of this Notice, including the informative digest that contains the general substance of the proposed regulations, automatically will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings, and California Government Code mailing lists.

## **ADOPTION OF REGULATIONS**

Following the hearing, the Insurance Commissioner may adopt or approve regulations substantially as described in this Notice and informative digest or he may adopt or approve modified regulations. He also may refuse to adopt or approve the regulations. Notice of the Insurance Commissioner's action will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings mailing list and to those persons who have otherwise requested notice of the commissioner's action.

Dated: March 25, 2005

JOHN GARAMENDI  
Insurance Commissioner

By \_\_\_\_\_  
Christopher A. Citko  
Senior Staff Counsel